

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK: PART TAP A

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3 THE PEOPLE OF THE STATE OF NEW YORK, : INDICTMENT NO.3853-2014  
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-against

ANTHONY THOMPSON,

Defendant.

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100 Centre Street  
New York, New York 10013  
January 4, 2019

B E F O R E:

THE HONORABLE ANN SCHERZER, Judge.

A P P E A R A N C E S:

OFFICE OF CYRUS VANCE, ESQ.  
DISTRICT ATTORNEY - NEW YORK COUNTY  
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New York, New York 10013  
BY: SEAN PIPPEN, ESQ.  
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For the People

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For the Defendant

SAMANTHA SCUOTTO  
Senior Court Reporter

S. Scuotto, SCR

## PROCEEDINGS

1 THE CLERK: Calendar 15, indictment 3853 of  
2 2014, Anthony Thompson.

3 MS. FRITZ: Good morning. Maranda Fritz,  
4 F-R-I-T-Z, for Anthony Thompson.

5 MR. PIPPEN: Good morning, Judge. Sean Pippen,  
6 P-I-P-P-E-N, for the People.

7 MR. KUDON: Good morning. Brian Kudon,  
8 K-U-D-O-N, for the People.

9 THE COURT: This case is on today for sentence.  
10 I have received and thoroughly reviewed the presentence  
11 memoranda that were submitted by both parties. Is there  
12 anything else that either party wishes to add?

13 MS. FRITZ: There's one very brief matter I'd  
14 like to discuss with your Honor at the bench.

15 (Whereupon an off-the-record discussion was  
16 held.)

17 THE COURT: Do you want to speak to your client  
18 before we continue?

19 MS. FRITZ: No.

20 THE COURT: Please arraign the defendant for  
21 sentence. Wait a second, did we get a presentence report  
22 in this case?

23 MS. FRITZ: Yes, we did.

24 THE COURT: Can I have that, please. Thank you.

25 THE CLERK: Anthony Thompson, you are before the

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1 Court for sentence following your conviction of  
2 securities -- scheme to defraud, count 2; count 12,  
3 securities fraud and count 46, securities fraud. Before  
4 being sentenced the Court will allow you, your attorney and  
5 the ADA an opportunity to address the Court with any  
6 matters relevant to sentencing. For the People.

7 MR. PIPPEN: Judge, just at this point we would  
8 request that the Court impose sentence of one to three  
9 years incarceration on each of the three felonies to which  
10 Mr. Thompson pled guilty to run concurrent with each other.  
11 And we'd ask that a judgement in the amount -- in the plea  
12 agreement be entered, \$869,910 in favor of the District  
13 Attorney's Office to be used for paying back the victims.

14 THE COURT: That's a change from what's been  
15 requested in the past, meaning what you had asked for was  
16 the jail sentence and submitted a memorandum in support of  
17 that request. I think that the defendant did not make the  
18 payment he was supposed to make. If he is sentenced to  
19 jail that's punishment enough for not making that  
20 compensation. If you want to renegotiate a repayment  
21 that's a different story, but you've never approached the  
22 Court with an indication that that's how you want to move  
23 forward.

24 MR. PIPPEN: We understand that, just -- okay,  
25 nothing further then. We had come prepared to address

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1 certain representations that were made in the sentencing  
2 memo. I'm prepared to do so.

3 THE COURT: Yes, I'd like to hear whatever. If  
4 there's something briefly you want to state I'm certainly  
5 interested in hearing it. It's obviously a case that I  
6 spent a lot of time reading the memoranda on so I could  
7 understand the nature of the scheme that was involved here.

8 MR. PIPPEN: Okay, thank you, Judge. This  
9 should be very brief. So, as articulated in our memo and  
10 again throughout the course of the case, it's been our  
11 position consistently that Mr. Thompson was engaged in a  
12 lengthy and well orchestrated scheme to artificially  
13 defraud investors through the manipulation of stocks to  
14 drive up their value and to dump shares controlled by  
15 himself and his coconspirators onto the market, onto  
16 unsuspecting investors and then to move on to the next,  
17 leaving the investors to hold the bag.

18 So after reviewing the defendant's submission,  
19 which our understanding was being submitted for, I believe,  
20 the purposes of sort of asking this Court for mercy for a  
21 non-jail sentence, it's our conclusion that that memorandum  
22 fell short and was an unfortunate step in the wrong  
23 direction. Specifically there are a number of  
24 misrepresentations in there, and I'll just address a couple  
25 of them that I think are important and I think illustrate a

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1 broader problem.

2 One of the arguments that was made was well, that  
3 a Federal Court had reviewed Mr. Thompson's disclaimers and  
4 found they were compliant with rule 17(b) of the Federal  
5 Securities Law. That may be technically true, but this  
6 Federal Court never said there was not a pump and dump  
7 operation going on or there wasn't securities fraud. It  
8 was merely that a specific portion of the disclaimers was  
9 compliant with Federal Securities Laws. It had nothing to  
10 do with saying that the sale or that stock offering was not  
11 fraudulent or anything else. And frankly it has nothing to  
12 do with what happened here because our case is not based  
13 upon Federal Securities Laws.

14 THE COURT: One moment. I apologize, go ahead.

15 MR. PIPPEN: Another one of the points that was  
16 raised in the sentencing memorandum was related to the  
17 defendant's use or consultation of attorneys during the  
18 course of the fraud, I guess the argument being that  
19 because he consulted with attorneys this was all sort of  
20 legitimate in some ways. Now, perhaps we would be willing  
21 to concede that the defendant wanted his disclaimers as  
22 news letters to be facially compliant with Federal  
23 Securities Laws, but again that has nothing to do with the  
24 disguise of ownership and control of the stock and the  
25 manipulation of the market that was specifically hidden

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1 from investors and not disclosed to the lawyers. And  
2 Defense Counsel and Mr. Thompson know that during the  
3 course of the investigation we met with these attorneys and  
4 addressed these issues.

5 The memorandum ignores activity post 2010 and it  
6 would be difficult to be brief and address what we consider  
7 to be a number of misleading statements in the sentencing  
8 memo, but there is one sentence in there that I think is  
9 worth just quoting here, which kind of is the culmination  
10 of what we think is the problem. "Certainly Mr. Thompson  
11 made mistakes and ultimately he pled guilty to transactions  
12 because he participated in what turned out to be a fraud on  
13 shareholders."

14 So in short, defendant now wants to have it both  
15 ways. He wants to stand here and say I should be given  
16 mercy because I'm taking responsibility for my actions  
17 without actually taking responsibility for his actions.  
18 And this is thus not a plea for mercy, but it is doing what  
19 the memo said it wasn't setting out to do, it's a blatant  
20 attempt to minimize and trivialize the defendant's conduct  
21 and his culpability.

22 And even worse what is problematic is if you read  
23 it, the defendant apparently is the victim of this whole  
24 thing. This is Kevin Sepe's fault, which is a ridiculous  
25 statement. Kevin Sepe didn't make him do anything. And

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1 we, the People, have never alleged or argued that Kevin  
2 Sepe was the mastermind behind this entire organization.  
3 That was never our position, nor does it really even  
4 matter. He's apparently the victim of a divorce being  
5 attacked by teams of lawyers that are being motivated by  
6 believing it was bitterness. He couldn't get a job because  
7 he was so humiliated and harmed emotionally by what was  
8 happening, all the while again while he's living off this  
9 trust that's supporting his lifestyle. And again, as  
10 illuminated or as discussed in our memo, our belief that  
11 that trust was funded by proceeds of the fraud.

12 We're here again because the defendant pled  
13 guilty under an agreement and it's that simple. This is  
14 not about what other defendants who cooperated or pled  
15 guilty early got. This is not about what relitigating  
16 these issues. And certainly while we stand here and we're  
17 sympathetic and understand there are collateral  
18 consequences to an individual going into jail, this is a  
19 problem of his making, Mr. Thompson's making.

20 Every defendant has family, has children and the  
21 defendant had a wife and kids when he chose to do this.  
22 Every defendant has personal issues that can be exacerbated  
23 when they go into custody. And no one wants to go to jail,  
24 including individuals who are charged and accused with  
25 crimes like this defendant. So finally the defendant is

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1 here to be held accountable for the fraud that he engaged  
2 in, the harm that he inflicted on the victims of this  
3 scheme. And to try to somehow blame the District  
4 Attorney's Office, this Court for the consequences of his  
5 own conduct, his fraud is not a plea for mercy, it's a  
6 guilt trip.

7 THE COURT: It's an attempt at a guilt trip,  
8 Counsel. It's an attempt at a guilt trip.

9 MR. KUDON: An attempt at a guilt trip. And,  
10 thank you, your Honor, and thus for all of these reasons,  
11 and I can go into more if necessary, but we believe that  
12 the violation of the agreement or his violation of the  
13 agreement, the sentence that we are recommending of one to  
14 three is appropriate and we ask the Court to impose that.  
15 Thank you for your indulgence, your Honor.

16 THE COURT: Thank you. Ms. Fritz.

17 MS. FRITZ: Thank you, your Honor, and I really  
18 do appreciate --

19 THE COURT: I'm going to ask you to raise the  
20 microphone up, so I can hear you.

21 MS. FRITZ: First of all I want to say that I  
22 appreciate, that we very much appreciate the time that your  
23 Honor has spent reviewing the materials related to what is  
24 obviously a fairly complicated case. What I want to first  
25 address is Mr. Pippen's point that was then echoed by the



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1 Court, which is why does the sentencing submission spend so  
2 much time talking about Mr. Thompson's business and I'll  
3 tell you why. This has been a long road to hold, your  
4 Honor.

5 THE COURT: What do you mean when you say it was  
6 echoed by the Court?

7 MS. FRITZ: When the Court said it was an  
8 attempt at a guilt trip.

9 THE COURT: I think my understanding of what the  
10 Assistant was trying to say was more focused on the  
11 personal ramification that will be facing the defendant  
12 should he be incarcerated. Was I correct about that?

13 MR. KUDON: That's correct.

14 THE COURT: I didn't take it to have anything to  
15 do with the business portion of the memo.

16 MS. FRITZ: But the reason why the brief spends  
17 so much time is because of this, this indictment occurred  
18 back in 2014. It occurred with much fanfare, that it was a  
19 mega fraud, 85 counts, B felonies, you name it. Ever since  
20 then, for years now, we have been dealing with a very  
21 simple fact which is the DA takes the position that there  
22 is this mega fraud. We take the position, a very simple  
23 position, that is well borne out by the documents, that Mr.  
24 Thompson was trying very hard to run a good business and  
25 then ran into, was hired by Kevin Sepe, and at that point

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1 engaged in improper conduct in connection with those  
2 transactions.

3 It's two different things, but each one of those  
4 speaks volumes about Mr. Thompson. What we tried to do in  
5 this submission was to start by laying out what the  
6 structure was that was involved here. And I think it's  
7 critically important because the DA's submission mushes  
8 everyone together as if it was one group of individuals  
9 sitting in a clubhouse. Here's what it was. It was --

10 THE COURT: I don't need you -- I took a very  
11 long time to familiarize myself with and understand the  
12 nature of the scheme that was involved, including reading  
13 your very voluminous submission and speaking with Judge  
14 Conviser who had presided over the case for a significant  
15 period of time. So I'm willing to hear anything additional  
16 that you have to say with respect to sentence, but I really  
17 don't want you to repeat your version of the scheme as it  
18 occurred, because I'm familiar with it having read your  
19 very thorough papers.

20 MS. FRITZ: I don't want to repeat it and I  
21 appreciate the time the Court spent, but again responding  
22 to what Mr. Pippen just said, Mr. Pippen would have the  
23 Court believe that there was a group of individuals all  
24 acting together and that's not the case. Kevin Sepe had  
25 some very close associates down in Florida that he had

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1 worked with for many, many years. Those individuals were  
2 defendants in this case; Dervalli, Oxsalida, Rodriguez,  
3 Halperin. All of those individuals worked with Mr. Sepe  
4 day in and day out in his enterprises doing what he was  
5 doing.

6 And Mr. Pippen emphasized the idea that there was  
7 disguised control here. Those are the People who did the  
8 disguising of the control. Those are the people who served  
9 as nominee shareholders, whether it's Dervalli, whether  
10 it's Oxsalida, whether it's Rodriguez, those are the people  
11 that were working with Sepe day in and day out  
12 accomplishing this nominee shareholder scheme.

13 Then switch across the country, Mr. Thompson in  
14 Maryland had created a very successful business and Sepe  
15 hires him. The business was successful and compliant. Why  
16 did I emphasize that there was so much of an effort to be  
17 compliant? Because I think that speaks volumes about who  
18 he is and whether or not he was intending to hurt people.  
19 So do I think that's absolutely important, yes. Some of  
20 the communications that I provided some of the exhibits  
21 that were attached are like documents I've never seen in 40  
22 years of doing this work.

23 THE COURT: Ms. Fritz, are you withdrawing your  
24 client's plea of guilty to having committed this crime?  
25 Because this crime involves knowledge of a scheme to

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1 defraud. What you are essentially saying now is that he  
2 was just sort of lured into something against his will and  
3 that seems to be contrary to his plea of guilty.

4 MS. FRITZ: What I'm trying to establish is if  
5 you can picture a guy who is running a very good,  
6 legitimate business, he gets hired by Kevin Sepe and then  
7 in those transactions, and he has pled guilty with respect  
8 to two of them, he engaged in improper conduct for which he  
9 has stepped up and accepted responsibility. The view from  
10 this side of the room is mega fraud involved, everything  
11 was a scam. I'm trying to differentiate. I'm trying to  
12 say did he do wrong things? Yes, he did and he's trying to  
13 take responsibility for it. But this whole mishmash of  
14 trying to just clump everybody together I think is  
15 inappropriate roles in --

16 THE COURT: I would say the People's sentencing  
17 memorandum was about one-twentieth the size of yours. They  
18 simply summarized the facts and made -- they noted that the  
19 defendant had failed to abide by the plea agreement. So I  
20 don't think that they in any way have exceeded their  
21 authority in making an appropriate sentence recommendation.  
22 They haven't gone into the facts of what anybody other than  
23 what your client did. You are the one who has gone into  
24 the facts of what people other than your client did, so I  
25 really am containing -- would like to contain the argument

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1 to your client's conduct. And I can't help but observe  
2 that the voice from your side of the room is an aggregation  
3 of responsibility, rather than owning up to what your  
4 client did. To say your client -- I'll reserve my  
5 comments for when I impose sentence.

6 MS. FRITZ: First of all, of course I've gone  
7 through each and every sentence that was imposed in this  
8 case, whether by Judge Conviser or by Judge Biben. I've  
9 done it because that's the law, because the Court of  
10 Appeals, for example, has reversed a case where there was a  
11 failure to consider and ensure that sentences were  
12 proportionate one to another based on role and other  
13 factors. It is the law, that is what they expect. And in  
14 this case they reversed and remanded because the  
15 sentence -- because the sentencing did not properly  
16 consider that issue. I think there's no question here that  
17 I view it as vitally important what was done. Ordinarily  
18 in a case like this the Prosecution --

19 THE COURT: Please address your comments to what  
20 the sentence for your client should be.

21 MS. FRITZ: Okay. Given, I think, issues like  
22 role in personal circumstances are terribly important along  
23 with the background in terms of what this -- what the DA  
24 has focused on. Before I get to talking about Mr. Thompson  
25 personally I have to address this issue that's been raised

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1 by the DA and that is that because Mr. Thompson violated  
2 the plea agreement, because he failed to pay the fine that  
3 incarceration is appropriate.

4 I'm sure the Court is aware, I'm sure the Court  
5 is aware under the relevant provisions of the Penal Law and  
6 the Criminal Procedure Law, inability to pay a fine cannot  
7 be, cannot be a basis for incarceration.

8 THE COURT: This was not a fine, this was  
9 restitution.

10 MS. FRITZ: Inability to pay restitution.

11 THE COURT: Okay, I hear you, yes.

12 MS. FRITZ: So the Penal Law and the Criminal  
13 Procedure Law are very clear in terms of how that issue is  
14 addressed. And the fact that for a long time now the  
15 standard has been that we don't put people in jail for  
16 that. We do put people in jail and there was a recent  
17 issue involving failure to pay a fine or restitution. We  
18 put people in jail when they fail willfully to pay an  
19 amount that's due. We don't put people in jail, and the  
20 provisions of the CPL don't permit it, where they're not  
21 able to pay the fine. We only incarcerate individuals and  
22 impose monetary --

23 THE COURT: I don't think you've spent a lot of  
24 time in this courthouse if you believe that's true.

25 MS. FRITZ: Your Honor, again going through

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1           60.27 --

2                   THE COURT: I'm talking about the reality of  
3 this courthouse. I understand your point. What is your  
4 next point?

5                   MS. FRITZ: Let me just follow-up then, because  
6 to me this is very clear from Penal Law 80 and 60.27 that  
7 inability to pay --

8                   THE COURT: Ms. Fritz, your client entered into  
9 a plea agreement. Did he enter into a plea agreement in  
10 which he agreed to make a certain amount of payment within  
11 a certain amount of time?

12                  MS. FRITZ: Yes.

13                  THE COURT: Has he made one payment? Has he  
14 paid even one dollar?

15                  MS. FRITZ: He has not. And the issue is not --  
16 the issue before this Court is --

17                  THE COURT: Is your client living in a shelter?

18                  MS. FRITZ: No.

19                  THE COURT: Okay, I don't accept the proposition  
20 that your client has not been able to make a single payment  
21 in the period of one year, so to the extent you are arguing  
22 he's literally unable to make any payment I do not accept  
23 that.

24                  MS. FRITZ: Okay. The other thing I would point  
25 out as a matter of law is that he was never Court ordered

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1 to make a payment. He has never failed to make any payment  
2 that has ever been directed by any Court anywhere. Now, as  
3 I said before, incarceration even for failure to pay  
4 Court-ordered restitution is not permissible under our laws  
5 absent failure to pay, absent failure to pay.

6 THE COURT: Please move on to your next point.

7 MS. FRITZ: I want to make the record here, your  
8 Honor, cause given where we are, we've ended up, this is  
9 incredibly significant. In order -- even to order payment  
10 of a fine, inability to pay has to be considered. And  
11 incarceration, for example --

12 THE COURT: I told you I don't accept your  
13 client has been unable to make pay single payment in the  
14 course of a year.

15 MS. FRITZ: We have provided ample --

16 THE COURT: I'm going to let you speak for five  
17 more minutes because I do have a very full calendar, as you  
18 know. I did provide you with an opportunity to put all of  
19 your arguments in writing. You provided me with a very  
20 extensive sentence memorandum. You are now repeating the  
21 same thing over and over again when I have already  
22 indicated that I have an understanding of your arguments.

23 MS. FRITZ: I understand that.

24 THE COURT: So I'm going to give you five  
25 minutes starting now to finish your argument and I don't



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1 think that's unfairly cutting you off.

2 MS. FRITZ: I just want to spend some time  
3 talking about the information that you received about Mr.  
4 Thompson himself. Obviously you received a great many  
5 letters that talk about who he was, who he is, what he's  
6 become over the last six years. I want to introduce you to  
7 some of the folks that wrote those letters. Mr. Anthony  
8 Thompson is Mr. Thompson's Father. He's an attorney in  
9 Washington now for more than fifty years. With him is  
10 Bruce Crawford, another individual who wrote a letter  
11 talking about the relationship that the family has and the  
12 remarkable relationship that exists between Anthony and his  
13 three young children. With them is Lance Seacrest, he also  
14 wrote a letter and talked about -- not the business that  
15 Anthony had done, and talked about Anthony helping his  
16 family in a terrible time of need and talked about the  
17 children and their relationship with Anthony. So to me,  
18 who he was, who he is, who he has become is critically  
19 important.

20 Second, the reason why I'm asking for no jail is  
21 because over the course of the last eight to ten years he  
22 has suffered every kind of penalty, punishment that one  
23 could possibly ask, that one could possibility inflict on  
24 someone. Everything from the loss of every sort of  
25 business, professional reputation, his marriage, the loss

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1 of his own mother even as the case was going on. He has  
2 gone through unbelievable pain and I know this because I've  
3 been there for six years alongside him and alongside this  
4 family. The man will never reoffend, that's a given.

5 We believe that we have established that this was  
6 not a willful failure to pay. We believe that we have  
7 tracked through every moment of why the agreement was  
8 entered into. I even provided for the Court a copy of the  
9 arbitrator's order that said we could pay the fine, it's  
10 one of the exhibits in here. He reasonably, very  
11 reasonably believed that that fine could be paid when he  
12 entered into that agreement.

13 I also want your Honor to know that when we took  
14 this plea in front of Judge Biben we talked at great length  
15 because I had very real concerns given the amount of money.  
16 And I spoke with Judge Biben and said what are we going to  
17 do if we come back a year from now and what we had envisioned  
18 doesn't happen? And Judge Biben in no uncertain terms said  
19 the issue becomes whether he was able or not, whether there  
20 was an ability to pay or not. I have tried to lay out what  
21 Mr. Thompson's life has been over the course of the last  
22 year. Not only did we get in a fight for --

23 THE COURT: That is not indicated anywhere in  
24 the plea agreement.

25 MS. FRITZ: That I fought for and got an order

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1 from the arbitrator to pay this amount? It is one of the  
2 exhibits.

3 THE COURT: I'm talking about what you say Judge  
4 Biben said.

5 MS. FRITZ: It's not -- I mean, again to me  
6 it's just flat out consistent with what the law is, which  
7 is if there is -- if he doesn't pay -- and this was not a  
8 court-order, Judge, this was a plea agreement. This was a  
9 breach of contract. In a breach of contract case, your  
10 Honor, there are mitigating circumstances.

11 THE COURT: I understand and we're at two  
12 minutes now.

13 MS. FRITZ: The sentence must be commensurate  
14 with the sentences that are being imposed on the other  
15 individuals in this case. As I said, the Court of appeals  
16 has reversed for resentencing where the Court failed to  
17 take into account whether a sentence was disproportionate  
18 to others. Here every single individual, whether it's  
19 Kevin Sepe, whether it's the people who deliberately  
20 engaged in acts as nominee shareholders, deliberate willful  
21 violations, those individuals, people at a lower rung that  
22 assisted Mr. Sepe and then the people completely outside of  
23 the organization, the People that did the promotional  
24 materials, including Jay Fung who actually managed to get  
25 himself indicted for insider trading while awaiting

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1 sentencing, the DA went in front of the Judge and still  
2 insisted that he should get jail time, same position, and  
3 Judge Conviser gave him time served. There is not one  
4 person here from the top of the latter all the way down  
5 that has had jail imposed and it's extremely concerning  
6 given the fact that we think that the inability to pay is  
7 clear.

8 Here's what I came before the Court to ask for.  
9 The Court is absolutely correct that if you put Mr.  
10 Thompson in jail you cannot award any significant monetary  
11 restitution. He was, remains willing to do that, to repay  
12 investors, to work his tail off after it took him six years  
13 to get a position, to get a job. He's more than willing to  
14 do that.

15 The alternative at this point, this is a total  
16 crossroads, right now at this moment. He has finally  
17 regained custody of the children. He's got a small  
18 apartment in Maryland and he's finally gotten a job. He  
19 had his first closing in that real estate position  
20 recently. He will either be able to continue that, to make  
21 restitution, to do as Kevin Sepe, hundreds of hours of  
22 community service, that's one path. And we have here five  
23 organizations in the Maryland area that we've researched  
24 for him to perform community service.

25 THE COURT: Has he done any community service or

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1 any volunteer work during these past years?

2 MS. FRITZ: Yes, he was on the Board of Habitat.  
3 He's been involved in United Way.

4 THE COURT: Being on the Board is different from  
5 doing community service.

6 THE DEFENSE: He's also participated in their  
7 activities.

8 THE COURT: He's built houses while he's been on  
9 the Board of Habitat for Humanity.

10 MS. FRITZ: Yes, he has.

11 THE COURT: Mr. Fritz, I have to cut you off.  
12 I'm sorry, I gave you a very fair warning and it's five  
13 minutes past the warning I've given you.

14 MS. FRITZ: The Court is aware at this point you  
15 can throw Mr. Thompson in jail. There will be no monetary  
16 component to it. He will lose his children. He will lose  
17 his job. He will lose the ability to be productive. And  
18 it is particularly difficult to accept that, whereas I said  
19 I don't believe that inability to pay can be a basis for  
20 incarceration and all it does is ensure an inability to  
21 pay. This is a precise circumstance where somebody has  
22 rebuilt from the ground up, can do better. He can and I  
23 believe --

24 THE COURT: Okay, is there anything you want to  
25 say Mr. Thompson before I sentence you?

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1 THE DEFENDANT: Yes, your Honor. Your Honor, I  
2 stand before you and the Court today due to my actions and  
3 my mistakes. These last six years have been an incredibly  
4 painful experience and one that I will always carry with  
5 me. After my indictment in 2014 my wife and I separated.  
6 We are close to finalizing a painful and difficult divorce,  
7 most of all for our three children, Skylar 12, Colton 9 and  
8 Beckam 7. I've lost my mother to a devastating battle with  
9 cancer and saw what my criminal case and the worry brought  
10 to her in her final days. I've lost all my money, lived  
11 through a painful custody fight and finally gained joint  
12 custody of my children.

13 I've caused harm to people who invested in the  
14 companies that I brought them and severe pain and heartache  
15 to my loved ones. I do not say these things to your Honor,  
16 to this Court as a plea for sympathy, but to take  
17 responsibility for my actions. I understand and I want  
18 your Honor to understand that I know what I did was wrong  
19 and I've seen the pain that I've caused so many people.

20 It's been a long road back, but I've fought hard  
21 to try and rebuild my life and become a better man each  
22 day. My entire world is my children, obviously I want to  
23 be with them. Based on the custody case the Court experts  
24 agree it is also important for them to be with me.

25 Rebuilding a professional life was much harder

## PROCEEDINGS

1           than I imagined it would be, but I studied and passed the  
2           real estate exam on the first try and have been given a  
3           second chance by an amazing individual to earn money for my  
4           family and to take care of my obligations. I know if your  
5           Honor sentences me to jail I will lose it all. I'm asking  
6           your Honor to allow me to go back and take care of my  
7           family and continue to be a devoted father and a productive  
8           member of society.

9                       THE COURT: Mr. Thompson, I appreciate your  
10           words and I particularly appreciate your taking  
11           responsibility for the harm that you caused to the people  
12           who invested money in securities which were not what they  
13           purported to be and I think that it's exceedingly  
14           important. I appreciate that because I think it's critical  
15           for you to acknowledge that you stole money from people by  
16           your own free will. That you are a person who has been  
17           given many, many advantages that most people who come  
18           through this courthouse have not been given educationally,  
19           professionally, family-wise. You have been given  
20           tremendous opportunities and yet you and presumably your  
21           codefendants, even though I don't know anything much about  
22           their cases, engaged in a scheme that was motivated by  
23           greed and a lack of consideration for the people who were  
24           going to be harmed by what you did.

25                       I believed that the plea agreement you entered

## PROCEEDINGS

1 into was incredibly generous. I think that the plea  
2 agreements in this case were incredibly generous given the  
3 crimes that took place, which had tremendous financial  
4 consequences for many people and, as I said, were motivated  
5 by greed and a lack of consideration for what would happen  
6 to the person on the other side.

7 I am of course sympathetic to the fact that it  
8 will be a tremendous hardship for your children if you go  
9 to jail and for you. And putting people in jail, despite  
10 my position, is my least favorite thing that I do at my job  
11 because it's terrible for everybody's family and every  
12 person to have to go to jail, but the fact is that you were  
13 given an incredibly reasonable, generous plea offer by the  
14 People. And there are -- I understand that you've come  
15 upon financial hardship, but the fact that through this  
16 time there hasn't been any effort to make any payments  
17 toward the goal to me speaks volumes about your motivation  
18 and your belief that you would get away with it.

19 So, I'm terribly sorry for your children that you  
20 will be absent from their lives for a period of time,  
21 however that is something that happens to anybody who  
22 commits a crime and is caught and has to answer for it. I  
23 have already told you that the -- your lawyer that I will  
24 permit you to surrender yourself for sentence. The  
25 sentence of the Court on this case is going to be one year



## PROCEEDINGS

1 in jail on each count. The sentences will run concurrent  
2 with one another and you can let me know what's a good date  
3 for your client to step in.

4 MS. FRITZ: Your Honor, I have one last request.  
5 We took a hard look at Shock and whether Shock would be  
6 appropriate in the event of imposition of jail time. I  
7 know your Honor is familiar with Shock --

8 THE COURT: I don't know if he can get Shock  
9 with a City jail sentence.

10 MR. PIPPEN: My understanding is it's State, but  
11 I could be wrong.

12 THE COURT: I was specifically not sentencing  
13 him to State time, so --

14 MS. FRITZ: Okay.

15 THE COURT: I mean that was my compromise in  
16 your client's benefit. If you think he would be better off  
17 having Shock and a State prison sentence --

18 MS. FRITZ: No, your Honor, I was actually  
19 hoping you would consider a split if you were not going to  
20 give what the People were asking for.

21 THE COURT: What date would your client like to  
22 surrender?

23 MR. KUDON: Your Honor, I'm sorry for  
24 interrupting, bail was exonerated on the date of the plea.  
25 We would, considering your Honor is going to impose a jail

## PROCEEDINGS

1 term --

2 THE COURT: First of all, one person at a time.  
3 Are you making a bail request?

4 MR. KUDON: Yes, your Honor.

5 THE COURT: That's denied. Obviously my promise  
6 of the sentence is contingent of coming back and  
7 surrendering yourself. I'm sure you'll do that. The last  
8 thing you want to do is increase the amount of time and if  
9 you don't come back to court on the date of your sentence  
10 that's what's going to happen. I assume that's obvious to  
11 you.

12 THE DEFENDANT: Yes.

13 THE COURT: I was giving you an opportunity to  
14 surrender yourself so you can get your affairs in order and  
15 speak to your children.

16 THE DEFENDANT: Thank you, your Honor.

17 THE COURT: What date would you like?

18 MS. FRITZ: Two weeks, your Honor.

19 THE COURT: How about January 25th -- how about  
20 January 31st?

21 MS. FRITZ: Thank you.

22 (Continued on next page.)  
23  
24  
25

## PROCEEDINGS

1 THE COURT: January 31st for sentence.

2 \* \* \* \*

3  
4 C E R T I F I C A T I O N

5 It is hereby certified that the foregoing is  
6 a true and accurate transcript of the  
7 proceedings.

8   
9 SAMANTHA SCUOTTO  
Official Court Reporter

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**S. Scuotto, SCR**